



# EXCHANGE

## Subcommittee on Capital Markets

**Richard H. Baker, Chairman**  
Securities, Insurance, Government-Sponsored Enterprises

**The News from U.S. Rep. Richard H. Baker**  
**Sixth District, Louisiana**

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CONTACT: Michael DiResto, 225-929-7711

### Opening Statement

The Honorable Richard H. Baker, Chairman  
House Financial Services Subcommittee on Capital Markets,  
Insurance and Government-Sponsored Enterprises  
February 4, 2002

Hearing of the Capital Markets Subcommittee  
"The Enron Collapse: Impact on Investors and Financial Markets"

On December 12<sup>th</sup>, this committee conducted the first congressional hearing concerning the failure of Enron. From that time until now, there have been a series of vital determinations, which have enabled the staff to construct a disturbing picture of events. The misrepresentations, obfuscation and acts of secrecy should certainly warrant full investigation by enforcement officials to bring those to justice who have violated their fiduciary responsibilities.

Whether the Powers report is appropriately balanced or not, given the limited information on which the report is based, it does establish a basis on which to conclude that the corporate financial reporting was intentionally complex and misleading. On further examination, it may be determined that the rules aimed at requiring disclosure were so misused that they were warped into a black bag from which no information was able to escape.

But it should be made clear as to the role I envisage for this committee in light of these disturbing revelations. We are not prosecutors. In fact, inflammatory accusation will only inhibit our ability to get to the facts -- facts which are essential for us to reconstruct the regulatory environment so that these events will never be repeated again. We should carefully assess the record, find how and if the system failed, and enact the appropriate corrective remedies.

It is clear that in Baton Rouge this afternoon there are employees wondering if their corporation is really telling the true story, pensioners wondering if they are safe, and investors worrying about the analyst's report. This singular event has created a crisis of confidence that must be reconciled.

How is it that the auditors, the analysts, board members, investors, regulators, and even the financial press could not find anything to alert the public that Enron was not all what it appeared to be. Even if it was the Enron plan to dupe the entire financial marketplace and abscond with millions of dollars for a chosen few, how is it possible for that to occur in our technological society with watchdogs on every corner?

The historical facts answer that question. It wasn't possible.

I direct your attention to a New York Times article published on January 27, 2002, in which it is detailed how a German based energy company balked at a merger with Enron principally over concerns with Enron's accounting practices. These events occurred in 1999, long before anyone had the nerve to suggest that Enron had enron-itis.

I find this quote very interesting and instructive:

"Consultants from PricewaterhouseCoopers told Veba that Enron, through complex accounting and deal making, had swept tens of millions of dollars in debt off its books, making the company's balance sheet look stronger than it really was, according to people involved in analyzing the failed deal....

"The consultants drew on public sources like trade publications and securities filings, these people said."

The story goes on, "We were wondering why this wasn't common knowledge, or why it wasn't discovered by those people whose business it was to discover these things, said one of the people who worked on analyzing the deal. He agreed to discuss the episode on the condition that his firm not be identified." I remind you that this occurred in 1999.

In accordance with full transparency and disclosure standards, I must acknowledge that the article does go on to point out that the S.E.C and F.A.S.B should have taken more responsibility to intervene to protect the public interest. That is where this committee should appropriately focus. If the rules are not clear, if there is any doubt in anyone's mind, we must make it very clear: If in your professional judgment, Mr. Auditor, Mr. Analyst, Mr. Board Member or any other person in a fiduciary role, if you see it and it doesn't look right, it is your obligation to report to the appropriate authority. The practice of walking by the accident and leaving the victims to their own demise will no longer be an act tolerated by this Congress.

It is the principle obligation of this committee to find out how the system failed, and then act to insure the system not only works, but to insure there is redundancy in the system. We must guarantee protection of the shareholders, the employees, and every pensioner whose lifelong savings may be tied to the truthfulness of the required disclosures.

It is clear that some were able to find the truth to protect their own interests. The big question is why was it impossible for others to see the truth?

To that end, I feel it is of absolute necessity to establish audit independence. The reported numbers should add up properly and tell the true corporate story. There are two very different ways to accomplish this goal.

One is to require dramatic new standards of responsibility for everyone from the corporate board, to the audit committee, to the S.E.C to insure the individual auditor is not intimidated by management.

The other approach, one which would change the culture on Wall Street and across America, is to separate the auditor from the corporation entirely, by requiring external audits to be paid for by someone other than the corporation. Perhaps, as some have suggested, it's time to have the stock exchanges engage the auditors and report their findings simultaneously to the exchange and the corporation.

After all, should we really be surprised that when you pay the piper, that the piper plays your tune?

I will explore these ideas with Chairman Pitt today in the effort to propose the best remedy possible for this problem. But we won't take long to evaluate proposals, as this committee will act in days, not months or years.

The simple point is this.... In viewing the corporate landscape today, I do not like what I see. Although most corporations are well run and responsible, it is difficult to accept when a corporation closes its doors due to competitive pressure. But that is an unfortunate consequence of a free market system; losers finally lose.

But it appears there is a new threat in our complicated market place that did not seem possible in the slower, contemplative world of typewriters and whiteout. It is clear it is now possible for the aberrant corporate manager to take corporate assets, manipulate the books, enrich himself, and leave others to pay the price, by making the transaction complicated, convoluted, and computerized.

As a result, faithful employees lose it all. Life savings evaporate. Investors are duped. Lives are ruined, not from innovative competition, but from dark, sinister manipulation.

We will bring the sunlight in. Whether we just add some really big windows, or take the roof completely off, sunlight will make it inside the corporate boardroom.

Those who chose to ignore their responsibilities and enrich themselves while bringing harm to others shall have no safe harbor.

Those who labor long, build value, and create opportunity should be rewarded. We should all have confidence that the American dream is within our reach.

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